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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/519,955

12/30/2004

Kasper Kokkonen

4819-4735

7370

27123

7590

04/08/2009

MORGAN & FINNEGAN Transition Team  
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EXAMINER

YANG, JIE

ART UNIT

PAPER NUMBER

1793

NOTIFICATION DATE

DELIVERY MODE

04/08/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Shopkins@Lockelord.com  
OWalker@Lockelord.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/519,955	<b>Applicant(s)</b> KOKKONEN ET AL.	
	<b>Examiner</b> JIE YANG	<b>Art Unit</b> 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 14-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

In view the "Decision on Petition" filed on 2/25/2009 for the "Petition from requirement for restriction under 37 CFR § 1.144" filed 11/07/2008, the petition is Denied. Claims 14-18 are withdrawn as non-elected claims; claim 1 has been amended; and claims 1-13 are pending in application.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ikoma et al (US 5,685,892, thereafter US'892).

Regarding claims 1-6 and 9-13, US'892 is applied as discussed in the previous office actions marked 8/7/2008, 3/31/2008 and 10/04/2007.

Regarding the amendment in the instant claim 1, it did not change the scope of the claim.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over US'892 or alternately in view of JP'006, and further in view of Murakami et al (US, 4,578,977, thereafter US'977).

Regarding claims 7-8, US'892 in view of US'977 is applied as discussed in the previous office actions marked 8/7/2008, 3/31/2008 and 10/04/2007.

### ***Response to Arguments***

Applicant's arguments filed on 1/7/2009 with respect to claims 1-13 have been fully considered but they are not persuasive.

Applicant's arguments are summarized as follows:

1, US'892 patent does not teach or suggest an anode that "it is essentially completely bending on both sides with respect to the center of the anode" and "having a radius of curvature of 1,000-3,000 millimeters" because US'892 discloses an anode that is bent only at the leading end of the anode.

2, US'892 patent does not evidence bending position and bending degree as result-effective variables in the context of instant claim 1.

In responses:

Regarding arguments 1 and 2, firstly, as pointed out in the previous office actions marked 8/7/2008, 3/31/2008, and 10/4/2007, "essentially completely bending the anode on both sides with respect to the center of the anode and having a radius of curvature of

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1,000-3,000 millimeters” is considered as process imitations in an apparatus application. It is well settled that the manner in which an apparatus operates is not germane to the issue of patentability of the apparatus it self. Ex parte Wikdahl 10 USPQ 2d 1546, 1546 (BPAI 1989); Ex parte McCullough 7 USPQ 2d 1889, 1891 (BPAI 1988); In re Finsterwalder 168 USP 530 (CCPA 1971); In re Casey 152 USPQ 235, 238 (CCPA 1967). In the instant case, the prior art apparatus of US’892 would be capable of being operated in the manner as claimed. Therefore, the amended features of “essentially completely bending the anode on both sides with respect to the center of the anode and having a radius of curvature of 1,000-3,000 millimeters” do not add patentability weight to the instant apparatus claims for the feeding anode. MPEP 2114 [R-1]; Secondly, the Examiner disagrees with the Applicant’s arguments because US’892 has clearly shown evidence that the bending position and bending degrees are recognized as result-effective variables in term of feeding result, for examples, US’892 teaches: “The bending angle and length of the bent portion 1b of the anode scrap sheet (1) may change depending upon the construction of the chute or the like, but according to the inventors’ experimentation...” and US’892 further teaches when the bent leading end of the anode scrap reaches the melt in the converting furnace, the leading end tends to float in the melt due to the increase in the resistance exerted thereon and changes its posture gradually from vertical one to a horizontal one. Thus, the anode scrap sheet is prevented from impinging against the furnace bottom (Col.8, lines 6-25 of US’892). Therefore, it is the Examiner’s position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to optimize the bending

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angle and the bending position as demonstrated in US'892 in order to avoid anode impinging against the furnace bottom (Col.7, lines 48-59 of US'892). See MPEP 2144.05 II.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jie Yang whose telephone number is 571-2701884.

The examiner can normally be reached on IFP.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on 571-2721244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JY

/Roy King/  
Supervisory Patent Examiner, Art Unit 1793